



POLICE DEPARTMENT

January 17, 2023

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In the Matter of the Charges and Specifications
- against -

Detective John McGee
Tax Registry No. 920583
Barrier Section

Case No. 2020-21892

Detective Edward Carrasco
Tax Registry No. 946828
Narcotics Boro Bronx Major Case Unit

Case No. 2020-21893

Detective Ryan Blair
Tax Registry No. 950086
Narcotics Boro Bronx Major Case Unit

Case No. 2020-21894

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the CCRB-APU:

Dwayne Bentley, Esq.
Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

For the Respondents:

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To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-21892

1. Police Officer John McGee, on or about November 9, 2018, at approximately 1540 hours, while assigned to GANG BX and on duty, in the vicinity of the 44th Precinct Stationhouse, Bronx County, abused his authority as a member of the New York City Police Department, in that he strip-searched [REDACTED] without sufficient legal authority.

P.G. 208-05, Page 2, Paragraph C (1)

ARRESTS – GENERAL SEARCH
GUIDELINES

Disciplinary Case No. 2020-21893

1. Detective Edward Carrasco, on or about November 9, 2018, at approximately 1540 hours, while assigned to GANG BX and on duty, in the vicinity of the 44th Precinct Stationhouse, Bronx County, abused his authority as a member of the New York City Police Department, in that he strip-searched [REDACTED] without sufficient legal authority.

P.G. 208-05, Page 2, Paragraph C (1)

ARRESTS – GENERAL SEARCH
GUIDELINES

Disciplinary Case No. 2020-21894

1. Police Officer Ryan Blair, on or about November 9, 2018, at approximately 1540 hours, while assigned to GANG BX and on duty, in the vicinity of the 44th Precinct Stationhouse, Bronx County, abused his authority as a member of the New York City Police Department, in that he strip-searched [REDACTED] without sufficient legal authority.

P.G. 208-05, Page 2, Paragraph C (1)

ARRESTS – GENERAL SEARCH
GUIDELINES

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on November 18, 2022. Respondents, through their counsel, entered pleas of Not Guilty to the subject charges. The CCRB called [REDACTED] as a witness: Respondents testified on their own behalves. A

stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, the Tribunal finds Respondents Not Guilty.

ANALYSIS

It is undisputed that on November 9, 2018, at approximately 1540 hours, Respondents Carrasco, Blair and McGee conducted a traffic stop in Bronx County, New York, of [REDACTED]'s vehicle based upon their observation of heavy tinting on its windows¹ (T. 82, 101, 125, 128). Once the vehicle was stopped and [REDACTED] rolled down his window, Respondent McGee saw a large plume of smoke and noticed the smell of marihuana. According to Respondents, [REDACTED] blurted out, "I just finished smoking"² (T. 127). He was asked to step out of the vehicle and was frisked by Respondent Blair (*Id.*).

During the frisk, [REDACTED] was asked whether he had any weapons or sharp objects on his person; he then admitted that he had oxycodone on his person, which he claimed had been recently prescribed to him after back surgery (T. 23, 49, 82, 102-03, 113, 127, 129). [REDACTED] attempted to remove a paper McDonald's bag from his pocket, which contained 13 pills, but Respondent Blair removed it instead³ (T. 49, 103). Respondents Blair and McGee placed him under arrest and transported him to the 44th Precinct in the police car, while Respondent Carrasco followed in [REDACTED]'s vehicle (T. 23-25, 49-52, 85, 103-04, 128-29).

¹ While the legal basis for the traffic stop is not in dispute, once Respondents decided to stop [REDACTED]'s car, they checked his license plate through Department indices. They discovered three warrants associated with the vehicle (T. 82, 128). During his trial testimony, [REDACTED] claimed he provided his license and registration to Respondents. Still, they told him that the vehicle registration information on file did not correspond with the information [REDACTED] provided (T. 16-17).

² During his trial testimony, [REDACTED] denied smoking marihuana at the time of the stop (T. 48).

³ [REDACTED] testified that although he had a prescription for oxycodone and traveled to work with the pills in the prescription bottle, he removed them from the bottle and placed them in a paper bag to bring them onto the job site (T. 51).

When McGee questioned [REDACTED] on his way to the precinct about the oxycodone pills recovered from his person, he claimed that a prescription bottle of the oxycodone, with his name on it, was in his car (T. 108, 129). While Respondents eventually found a prescription bottle in the car with [REDACTED]'s name on it, the prescription for oxycodone did not correspond to the same oxycodone pills that Respondents found on his person (T. 108, 138-39). In addition, Respondents recovered a second pill bottle from the car, which had no label on it and contained 59 morphine pills (T. 97-98, 108, 138, 140). When Respondents confronted [REDACTED] with this evidence, he responded, "If it's not mine, it's possibly my wife who just had a baby. It could be her prenatal vitamins" (T. 24).

Upon his arrival at the 44th Precinct, McGee searched [REDACTED] at the desk before being taken to the holding cell area (T. 28, 86, 104). Several hours later, [REDACTED] was released on a Desk Appearance Ticket for Criminal Possession of a Controlled Substance in the Seventh Degree, a Class "A" misdemeanor⁴ (T. 148). He acknowledged that out of the three Respondents, the person he referred to as the "Irish Cop," later identified as Respondent McGee, was "phenomenally nice" throughout his detention (T. 29, 38, 54, 57).

There is a factual dispute in this case regarding the events that transpired from when McGee brought [REDACTED] to the holding cell area until he was released from the precinct. The dispositive issue in this matter is whether Respondents performed a strip search on [REDACTED] as that term is defined in Patrol Guide procedure 208-05. The following is a summary of the relevant evidence presented at the trial.

⁴ According to Respondent McGee's testimony, he believed that [REDACTED] could have been charged with a felony based on the number of pills found in his possession; he later had to explain to the Assistant District Attorney drafting the criminal complaint why he elected not to charge the felony (T. 147). Had [REDACTED] been accused of that crime, it was likely that the \$2,000 in U.S. currency also found in his possession would have been forfeited (T. 154).

Detective Specialist John McGee

Respondent McGee testified that once he arrived at the 44th Precinct, he inventoried [REDACTED]'s personal property at the desk and took his pedigree information; when that process was complete, he brought [REDACTED] to the holding cell area (T. 130). Before placing [REDACTED] in a cell, McGee "checked him for weapons, removed his belt and laces, checked his pockets, make sure he has no contraband [sic]" (*Id.*). He continued to explain that he had to "take . . . any items that he could harm himself with or harm another prisoner with or damage public property with" (*Id.*).

Respondent McGee testified that when he checked [REDACTED]'s "hoodie," he requested that he remove the string; [REDACTED] asked not to remove the string from his hoodie, so Respondent McGee agreed he could keep it in if he removed the sweater (T. 131). McGee then checked [REDACTED]'s waistband and pant pockets and asked him "what he was wearing underneath" (*Id.*). [REDACTED] replied that he had shorts on, leading McGee to ask, "Do you have pockets? If you have any strings in the shorts, they gotta [sic] come out" (*Id.*). McGee testified that as he explained the preceding to [REDACTED] "[H]e opened his pants and he showed me that he had no pockets and no strings. And the shorts that he had on, they were light. They weren't what I expected. I expected like the sports shorts, which I normally find where they have pockets and strings. And I could see that he had nothing. So I just told him, to put his pants back up, and we put him in the cells. And his shoes, we checked his shoes, and we took his laces from his shoes. Then we gave him back his shoes and put him in the cells" (T. 132).

When Respondent McGee was asked whether he had directed [REDACTED] to take that action, he replied, "No. I hadn't got to the stage to direct him to do anything. I just told him. I was asking him did he have pockets in his shorts, did he have strings. And I was telling him 'well, if you have strings, I am going to have to take them out.' I hadn't even finished that statement, and

he started opening his pants. And I thought he was going to open the top of his pants and take the strings out, but, no, he actually opened his pants, and he pulled them down, not all the way down, just about halfway down his thigh where I could see he showed me he had no pockets and he showed me that he had no strings. And I told him, 'just pull your pants up and go back in the cells.' He said he had underwear underneath, but to tell you the truth, I couldn't see if there was any underwear or anything. I didn't see his underwear, and I didn't go near his underwear that day" (T. 132-33). McGee described the shorts [REDACTED] exposed as "cotton-type shorts," and further explained, "I certainly expected, when he said shorts, I certainly expected him to have like football shorts, you know, like with pockets and the strings that you would wear, the basketball shorts" (T. 157).

Respondent McGee acknowledged the Patrol Guide's definition of a strip search and denied that he had conducted one on [REDACTED] (T. 136). He further testified that throughout his career, he had conducted approximately less than ten strip searches and was aware that they required supervisory approval: a command log entry; a notation in the online booking worksheet; an activity log entry; and an entry on the prisoner movement slip (T. 137).

Respondent McGee testified that he did make an overture to [REDACTED] to see whether he would be interested in working as a confidential informant, but [REDACTED] was not interested in doing so (T. 148-49). McGee denied that either he or Respondents Carrasco or Blair used profanity toward [REDACTED] or threatened him, during the time that he was in their custody (T. 152-53).

Detective Ryan Blair

Respondent Blair testified that once [REDACTED] arrived at the 44th Precinct, his property was inventoried and vouchered in front of the desk officer (T. 104). Once that process was complete, McGee took [REDACTED] into the holding cell area, where he conducted another search to secure any

items that could harm [REDACTED] or other detained prisoners, such as strings or laces (T. 105, 116). McGee conducted this search in front of the cell (T. 106). Respondent Blair testified that he recalled [REDACTED] having "a couple of layers" of pants (*Id.*). He denied ever asking [REDACTED] to pull down his pants to expose his underwear or witnessing anyone else asking him to do so (T. 106-07). Blair stated that he had conducted strip searches before this incident and that, under the Patrol Guide, the procedure required a supervisor's approval, a command log entry, and an activity log entry (T. 107). He stated further that neither he, nor Respondents McGee or Carrasco, conducted a strip search of [REDACTED] that day (*Id.*).

Respondent Blair testified that Respondents did have an interaction with [REDACTED] in which they asked him whether he would be interested in becoming a confidential informant, but he declined their overture (T. 110).

Detective Edward Carrasco

Respondent Carrasco testified that once [REDACTED] arrived at the 44th Precinct, Respondents McGee and Blair brought him inside the stationhouse while he parked [REDACTED]'s car (T. 86). When he walked inside the stationhouse, he observed [REDACTED] being searched in front of the desk officer and his personal items being inventoried (*Id.* at 86, 93). Respondents McGee and Blair gave Carrasco their firearms for safekeeping and took [REDACTED] into the holding cell area; Carrasco went to the arrest processing room to use a computer terminal (T. 94). Carrasco confirmed that, approximately one hour later, he was in the room when Respondents McGee and Blair spoke to [REDACTED] about becoming an informant, but denied having any personal interaction with him (T. 87). He further denied that either he or his co-Respondents used any profanity or threats against [REDACTED]. Finally, Carrasco testified that he was never in the holding cell area while [REDACTED] was searched (*Id.* at 87-88).

██████████ testified that on November 9, 2018, he was employed as a site safety manager for a construction company; his primary responsibility was to ensure compliance with safety regulations on the construction site (T. 14, 42). Among those responsibilities was conducting orientation for new workers on the company policies prohibiting marihuana, drug, or alcohol usage on the worksite; ██████████ further confirmed that workers were not permitted to take anything that might impair them during job time and had to disclose medication taken during work hours⁵ (T. 42-43).

He testified that after he left the desk area of the precinct, Respondents brought him into a room where they questioned him about becoming a Confidential Informant (T. 29-31, 87, 109-10, 148-49). According to ██████████ Respondents tried to intimidate him into taking their offer, but he declined it and was returned to the holding cell (T. 31). He testified that he explained to Respondents that he shared medication with his sister's boyfriend, who offered him pain medication he had been prescribed as an alternative to the prescription ██████████ had been taking (T. 52-53, 149).

██████████ testified that several hours later, he was again removed from the holding cell and taken to a room with all three Respondents, where they told him to take off his clothes (T. 31-32). ██████████ claimed that he was first directed to remove his "hoodie lace" and his shoelaces. He testified further that Respondents then directed him to pull down his pants and to pull his boxer

⁵ During his trial testimony, ██████████ asserted that: (1) based on his understanding of company policy, he was allowed to take oxycodone while working; (2) he disclosed his usage of oxycodone to his employer; and (3) that he believed his company was aware that he was taking oxycodone during work hours (T. 44-45). He conceded, however, that he made a prior inconsistent statement during his CCRB interview on November 19, 2018, in which he asserted, "I don't want these people in my business. I'm a safety super," and "It's one that I give out drug consents for guys to sign when they come on the site, but I'm on fucking Codone [sic]. How do I explain that? How do I explain that? You know, I said I can't. I can't. It's hard for me to explain to you" (T. 45).

briefs away from his waistline. He claimed that one of the Respondents was saying, "We're going to find the fucking gun, just tell us where it is" (*Id.* at 31).

██████ testified further that after he removed his sweater and removed the laces, he took down his pants (T. 32). According to ██████ he was told to "remove my elastic from my boxer brief from my skin so they could make certain I wasn't hiding nothing [sic]" (T. 32-33). While ██████ denied that any of the Respondents touched him, he claimed that they looked at him in a way that made him feel "violated" and "embarrass[ed]" (T. 32-34). He asserted that since he was not wearing a belt, his pants fell to his ankles, and that "they made me remove my elastic and expose myself" (T. 35, 61, 72-73). He affirmed that all three Respondents were present during the search (T. 36).

Credibility

Based on the totality of the record, I find ██████ to be an unreliable witness. While he appeared before the Tribunal and subjected himself to cross-examination, I found many of his answers to questions either unresponsive, embellished, or implausible. First, ██████'s admission that he carried oxycodone onto his job site in a paper bag rather than in the prescription bottle he claimed corresponded to his medication permits me to draw the inference that, contrary to his trial testimony, his company was unaware that he was taking prescription medication during work hours in violation of company policy. This fact allows me to infer that ██████ placed his interests ahead of those of society, a factor weighing against his veracity.

Even his assertion that he had a valid prescription for oxycodone, making his possession of the pills presumptively lawful, was belied by the results of Detective McGee's preliminary investigation. Based upon a comparison of the drugs prescribed to ██████ to the pills found in his possession, he may have had a valid prescription for oxycodone, just not for the oxycodone pills

he possessed on November 9, 2018. His explanation that he was "sharing" medication with his sister's boyfriend because the drug prescribed to him made him ill is unavailing. His claim that he did not know about the 59 morphine pills, which were also recovered from his vehicle, is equally dubious.

I draw no adverse inferences from either [REDACTED]'s drug use or his previous criminal history, as neither factor is relevant in this case concerning his credibility.

Second, as [REDACTED] described them, the sequence of events does not make sense. He testified that he was taken from the desk area and put in a cell, then later removed from the cell to be questioned about becoming a confidential informant. According to [REDACTED] he was returned to the holding cell, and then later removed to have a search performed, which involved the removal of his shoelaces and the string in his "hoodie." This sequence runs counter to long-established safety procedures for lodging prisoners, where a search to remove items that could be instrumentalities of either self-harm or harm to another prisoner is conducted *before* lodging the detainee in a cell.

Third, I had the opportunity to observe [REDACTED]'s demeanor as he testified at trial. I found his testimony generally overwrought, speculative as to other actors' motivations, and in several instances, unresponsive to questions, whether posed by the proponent of his testimony or counsel for Respondents.

In contrast, I credit all three of the Respondents' testimonies as forthright, concise, and logical. While it is true that they are interested in the outcome of this disciplinary hearing, I note that their respective testimonies were consistent, not only with each other but with the bulk of [REDACTED]'s testimony concerning incontestable facts. The disputed issues of fact concerned [REDACTED]'s description of a purported strip search, which, as set forth above, I have declined to credit.

Specification 1: Strip Search

I find that CCRB has failed to meet its burden of proof by a preponderance of the relevant, credible evidence that Respondents conducted a strip search.

Under Patrol Guide procedure 208-05(B)(2), "A search at a police facility, which is not the same as a 'strip search,' includes the removal of outer garments (e.g., overcoats, jackets, sweaters, vests, hats, wigs, ties, belts, shoelaces, drawstrings, shoes, socks, handbags, wallets, etc.). All pockets are to be emptied and all clothing not removed will be examined by grabbing, crushing, and squeezing the garments and by sliding the hands across the body to detect articles that may be underneath or sewn to the clothing."

In contrast, Patrol Guide procedure 208-05(C)(1) states, "A strip search is any search in which an individual's undergarments (e.g., bra, underwear, etc.) and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas."

I find that there is no credible evidence that Respondents directed, or participated in, any procedure tantamount to a strip search, as defined in Patrol Guide procedure 208-05(C)(1). I further find that [REDACTED] pulled down his pants to mid-thigh of his own volition, likely to establish his *bona fides* with Respondents that he was not attempting to hide anything from them. Even when he pulled his pants down, the credible evidence shows that he wore a pair of shorts underneath his trousers and that [REDACTED] never displayed his underwear. I do not credit [REDACTED]'s testimony that he pulled the waistband of his pants from his body, exposing himself.

Despite my rejection of [REDACTED]'s factual assertion that he was impermissibly strip-searched, he may well have been embarrassed by being searched and held in a detention cell. The procedures to ensure the safety of all detainees unavoidably trade some measure of personal

DETECTIVE JOHN MCGEE
DETECTIVE EDWARD CARRASCO
DETECTIVE RYAN BLAIR

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autonomy to minimize the possibility that a detainee will be harmed while in temporary police custody.

I, therefore, find Respondents Not Guilty.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Paul M. Gamble', written over the text 'Respectfully submitted,'.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

A handwritten signature in black ink, appearing to be 'Keeshant L. Sewell', written over a date stamp.

MAY 26 2023
KEESHANT L. SEWELL
POLICE COMMISSIONER